

## **REMARKS/ARGUMENTS**

### ***Amendments in General***

1. Claim 1 has been amended to include the linear object as a limitation.
2. Claims 5 and 20 have been amended to include the limitation “configured to envelope a linear object . . . .” Support for this limitation can be found in the preamble to the claims as well as in the specification.
3. These changes do not add new matter.

### ***Standards for Patentability***

4. “An applicant for a patent is entitled to the patent unless the application fails to meet the requirements established by law. It is the Commissioner's duty (acting through the examining officials) to determine that all requirements of the Patent Act are met. The burden is on the Commissioner to establish that the applicant is not entitled under the law to a patent . . . . In rejecting an application, factual determinations by the PTO must be based on a preponderance of the evidence, and legal conclusions must be correct.” *In re Oetiker*, 977 F.2d 1443, 1449, 24 USPQ2d 1443, 1447, 24 USPQ2d at 1447 (Fed. Cir. 1992) (Judge Plager concurring). “The precise language of 35 USC 102 that 'a person shall be entitled to a patent unless,' concerning novelty and unobviousness, clearly places a burden of proof on the Patent Office which requires it to produce the factual basis for its rejection of an application under sections 102 and 103.” *In re Warner*, 379 F.2d 1011, 1016, 154 USPQ 173 (CCPA 1967), cert. denied, 389 U.S. 1057, reh'g denied, 390 U.S. 1000 (1968).

### ***Claim Rejections - 35 USC § 102***

5. The Examiner rejected claims 1–3, 5–9, and 20 as being anticipated by Blackburn (USPN 5,190,533), noting that the phrase “for use in enveloping” had not been given any patentable weight “because said phrases are not found to be of positive limitations.”
6. As previously noted, independent claims 5 and 20 have been amended to note that the device is “configured to envelope.” Thus, the device’s being “configured to envelope” is now a positive limitation.

7. Blackburn teaches a biodegradable diaper with elastic strips located along the length of the diaper. When the diaper's ends are attached, the elastic strips form the leg openings.
8. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference." *Verdegal Bros. v. Union Oil Co. of California*, 814 F.2d. 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 828 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). MPEP § 2131.
9. Claims 5 and 20 have been amended to include the limitation that the device is "configured to envelope a linear object such as a cord, chandelier chain or pipe." Blackburn is not configured to receive a linear object and instead is configured to receive legs. For this reason, Blackburn does not describe each and every element of claims 5 and 20 as amended, and therefore Blackburn does not anticipate claims 5 or 20, or any of the claims that depend therefrom.
10. Regarding claim 1, claim 1 has been amended to change from claiming a "cord cover" to a "system for decoratively covering a linear object." An appropriate limitation regarding the linear object (electrical cord, chandelier chain, pipe) has been added to the claim.
11. Blackburn does not show such a system. Blackburn does not show such a linear object. In that each and every element as set forth in the claim is not found, either expressly or inherently described in Blackburn, Blackburn does not anticipate claim 1.
12. As such, Applicant requests that the §102 rejections be withdrawn and the application passed on to allowance and issuance.

***Conclusion***

None of the amendments added herein contain new matter.

If the Examiner feels it would advance the application to allowance or final rejection, the Examiner is invited to telephone the undersigned at the number given below.

Reconsideration and allowance of the application as amended is respectfully requested.

DATED this 7th day of August, 2007.

Very respectfully,

/STEPHEN M. NIPPER/

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STEPHEN M. NIPPER

Reg. No. 46,260

(208) 345-1122

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that this correspondence is being transmitted to the United States Patent and Trademark Office via EFS-Web on the below date:

DATE: August 7, 2007

/Katie van Beek/

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Katie van Beek

(208) 345-1122